

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327 JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
THIS DOCUMENT RELATES TO: Ethicon Wave 8 cases listed in Exhibit A	

**PLAINTIFFS’ DAUBERT MOTION TO
EXCLUDE THE GENERAL CAUSATION OPINIONS
OF DEFENSE EXPERT RICHARD MARCUS ELLERKMANN, M.D.**

COMES NOW Plaintiffs, by and through their undersigned attorneys, and files this Plaintiffs’ Daubert Motion to Exclude the General Causation Opinions of Defense Expert Richard Marcus Ellerkmann, M.D. (“Plaintiffs’ Motion”) and would respectfully show the Court that these aspects of Dr. Ellerkmann’s testimony should be excluded for the following reasons:

1. Dr. Ellerkmann is not qualified to discuss design issues regarding Defendants’ Prolift/Gynemesh PS mesh products because he has extremely limited knowledge of the design process.
2. Dr. Ellerkman also lacks the expertise to opine about the whether the warnings in those products’ Instructions for Use (“IFU”) were sufficient.

3. As to methodology, Dr. Ellerkmann's opinions are unreliable because he did not review any of the key documents that would have explained Ethicon's design procedures, because he reached opinions about the Prolift/Gynemesh PS's design without considering the design protocols, and because his complication rates are based on undocumented numbers.
4. Dr. Ellerkmann's opinions should also be excluded because he has not disclosed the basis for his opinions.
5. In support of this motion, Plaintiffs have submitted a memorandum of law and also relies upon the following attached exhibits:
 - a. A list of applicable cases, attached hereto as Exhibit A.
 - b. A true copy of excerpts from deposition of Dr. Ellerkmann, attached hereto as Exhibit B.
 - c. A true copy of Dr. Ellerkmann's General Report, attached hereto as Exhibit C.
 - d. A true copy of excerpts of the deposition of Katrin Elbert, Ph.D., attached hereto as Exhibit D.
 - e. A true copy of excerpts of the deposition of Charlotte Owens, attached hereto as Exhibit E.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the Court grant their Motion to Exclude the General Causation Opinions of Defense Expert Richard Marcus Ellerkmann, M.D.

Dated: October 18, 2018

Respectfully submitted,

/s/Thomas P. Cartmell

Thomas P. Cartmell, Esq.
Jeffrey M. Kuntz, Esp.
Wagstaff & Cartmell LLP
4740 Grand Avenue, Suite 300
Kansas City, MO 64112
816-701-1102
Fax 816-531-2372
tcartmell@wcllp.com
jkuntz@wcllp.com

/s/ D. Renee Baggett

Bryan F. Aylstock, Esq.
Renee Baggett, Esq.
Aylstock, Witkin, Kreis and Overholtz, PLC
17 East Main Street, Suite 200
Pensacola, Florida 32563
(850) 202-1010
(850) 916-7449 (fax)
rbaggett@awkolaw.com
baylstock@awkolaw.com

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing document on October 18, 2018, using the Court's CM-ECF filing system, thereby sending notice of the filing to all counsel of record in this matter.

/s/Thomas P. Cartmell

Attorney for Plaintiffs